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S&H Form: (2/01)

Docket No.: 1572.1154

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:

Nam-il CHO, et al.

Serial No. 10/694,029

Group Art Unit: 3632

Confirmation No. 3878

Filed: October 28, 2003

Examiner: Sterling, Amy Jo

For: DISPLAY APPARATUS

**RESPONSE TO RESTRICTION REQUIREMENT**

Commissioner for Patents  
PO Box 1450  
Alexandria, VA 22313-1450

Sir:

This is responsive to the Office Action mailed October 1, 2004, having a shortened period for response set to expire on November 1, 2004, the following remarks are provided.

I. Provisional Election of Claims Pursuant to 37 CFR §1.142

Applicants provisionally elect **Species I** in response to the preliminary restriction requirement set forth in the Office Action.

II. Applicants Traverse the Requirement

Applicants respectfully submit that: claims 1-17, 29, 30, and 32-41 are generic; claims 18-23, and 31 are directed to Species I; and claims 24-28 are directed to Species II.

Insofar as Group II is concerned, it is believed that claims 24-28 are so closely related to elected claims 1-23, and 29-41, that they should remain in the same application. The elected claims 1-23, and 29-41 are directed to a display apparatus, and claims 24-28 are also drawn to a display apparatus. Additionally, claims 24-28 depend ultimately from generic claim 1.

There have been no references cited to show any necessity for requiring restriction and, in fact, it is believed that the Examiner would find references for both species in the same field of technology. While it is noted that the Examiner has identified different classifications, it is believed that classification is not conclusive on the question of restriction. It is believed, moreover, that evaluation of both sets of claims would not provide an undue burden upon the

Examiner at this time in comparison with the additional expense and delay to Applicants in having to protect the additional subject matter recited by the Species II claims by filing a divisional application.

MPEP §803 sets forth the criteria for restriction between patentably distinct inventions. (A) indicates that the inventions must be independent (see MPEP §802.01, §806.04, §808.01) or distinct as claimed (see MPEP §806.05-806.05(i)); and (B) indicates that there must be a serious burden on the Examiner if restriction is required (see MPEP §803.02, §806.04(a)- §806.04(i), §808.01(a) and §808.02). The Examiner has not set forth why there would be a serious burden if restriction is required.

### III. Conclusion

Upon review of references involved in this field of technology, when considering that the Species I and Species II claims are both directed to a display apparatus, that Species II claims ultimately depend from generic claim 1, and when all of the other various facts are taken into consideration, it is believed that upon reconsideration of the Examiner's initial restriction requirement, all of the pending claims should be examined in the subject application.

In view of the foregoing amendments, arguments and remarks, all claims are deemed to be allowable and this application is believed to be in condition for allowance.

If any further fees are required in connection with the filing of this Amendment, please charge the same to our deposit account number 19-3935.

Should any questions remain unresolved, the Examiner is requested to telephone Applicants' attorney.

Respectfully submitted,

STAAS & HALSEY LLP

Date: 01 Nov 2004

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